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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 ANTONIO GUTIERREZ,

12 Plaintiff,

13 v.

14 UNITED STATES DEPARTMENT OF  
15 AGRICULTURE, *et al.*,

16 Defendants.

) Civil No. 09cv125-L(BLM)

) **ORDER DISMISSING ACTION FOR**  
) **LACK OF SUBJECT MATTER**  
) **JURISDICTION**

17 Plaintiff filed this action to quiet title to his property and declare right to possession. He  
18 also asserted claims for fraud, negligent misrepresentation, unfair business practices,  
19 constructive trust and attorney malpractice under California law. The court initially had subject  
20 matter jurisdiction over the action because United States Department of Agriculture (“USDA”)  
21 was a named Defendant who held a deed of trust on Plaintiff’s property. On March 31, 2009  
22 Plaintiff voluntarily dismissed the USDA. He subsequently dismissed several additional  
23 Defendants. The only Defendants remaining in the case are Marco J. Rodriguez and Gabriel  
24 Doe.

25 The federal court is one of limited jurisdiction. *See Gould v. Mutual Life Ins. Co. of N.Y.*,  
26 790 F.2d 769, 774 (9th Cir. 1986). It possesses only the power authorized by the Constitution or  
27 a statute. *See Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). It is  
28 constitutionally required to raise issues related to federal subject matter jurisdiction and may do


1 so *sua sponte*. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 93-94 (1998); *see Indus.*  
2 *Tectonics, Inc. v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990).

3 Because the USDA is no longer a Defendant, the court has dismissed all claims over  
4 which it has original jurisdiction. The only remaining Defendants are Marco J. Rodriguez,  
5 Plaintiff's former attorney, and Gabriel Doe, Mr. Rodriguez' assistant. Plaintiff alleges state law  
6 claims for fraud, negligent misrepresentation and attorney malpractice against them. Pursuant to  
7 28 U.S.C. § 1367(c) the court declines to exercise supplemental jurisdiction over these claims.

8 Accordingly, this action is hereby **DISMISSED WITHOUT PREJUDICE** for lack of  
9 subject matter jurisdiction.

10 **IT IS SO ORDERED.**

11  
12 DATED: June 30, 2009

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14   
M. James Lorenz  
United States District Court Judge

15 COPY TO:

16 HON. BARBARA LYNN MAJOR  
UNITED STATES MAGISTRATE JUDGE

17 ALL PARTIES/COUNSEL  
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